



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,717	04/10/2000	Scott Olive		5432

26304 7590 06/17/2004

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

EXAMINER

NGUYEN, KIM T

ART UNIT	PAPER NUMBER
----------	--------------

3713

DATE MAILED: 06/17/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/462,717

Applicant(s)

OLIVE, SCOTT

Examiner

Kim Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2002 and 11 January 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-105 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-105 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11, 12.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The preliminary amendments filed 7/18/02 and 1/11/00 have been received and considered.

By the amendments, claims 99-105 have been added and claims 1-105 are now pending in the application.

Claim Objections

1. Claims 90 and 103 are objected to because of the following informalities:
 - a) In claim 90, line 9, the claimed limitation “respective console” should be corrected to “gaming console”.
 - b) In claim 103, line 3, the claimed limitation “the game” should be corrected to “a game”.
 - c) In claim 103, line 5, the claimed limitation “a game” should be corrected to “the game”.
- Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-105 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a) In claim 1, the claimed subject matter is ambiguous. It is not clear if the claim is directed to a system or a method claim.

b) In claim 1, the definition of “trigger condition” in line 5 is not clear. How can the “trigger condition” in line 5 be determined based on the “trigger conditions” in line 8? How can the very first trigger condition be determined?

c) In claim 1, line 7, the term “turnover” is not defined. What is the meaning of “turnover”?

d) In claim 1, line 7, the relationship of the phrase “between successive occurrences” with other elements is ambiguous. It is not clear if the “successive occurrences” are used to determine the average turnover, or if the “successive occurrences” represent the beginning and the end point between which the turnovers are averaged.

e) Claims 23, 43, 61, and 81 are similarly rejected as explained in claim 1 above.

f) In claim 90, line 4, the claimed limitation “including trigger means” is ambiguous. It is not clear if the “trigger means” is included in the “gaming system” or in the “gaming console”.

g) In claim 90, lines 8-9, the claimed limitation “including a signal output means” is ambiguous. It is not clear if the “signal output means” is included in the “gaming system” or in the “gaming console”.

h) In claim 90, line 13; and claim 103, line 14, the claimed limitation “a machine” is not clear. It is not clear if the “machine” is the “gaming console” or if the “machine” is another machine which is different from the “gaming console”. Is “the machine” included in the gaming system? what is the relationship between the machine, the gaming system, and the gaming consoles?

i) In claim 103, lines 4, 7, and 9, the claimed limitation “the console” in lines 4 and 7, or “the gaming console” in line 9 is ambiguous. It is not clear if “the console” or “the gaming

Art Unit: 3713

console” refers to “each of said at least two gaming consoles”, or if “the console” or “the gaming console” refers to “only one of said at least two gaming consoles”. The claimed limitation “the console” lacks of antecedent basis in the claim.

j) In claim 103, lines 13-14, the claimed limitation “each of the at least one connected consoles” seems to be incorrect because in claim 103, lines 1-2, the gaming system includes at least two gaming consoles.

k) In claims 100-102 and 104-105, lines 2-3, the claimed limitation “all of the possible game outcomes comprise an award” is ambiguous. It is not clear if “all of the possible game outcomes comprise an award” means “an award is included in every (each) possible game outcomes”, or “an award is included in only one of the possible game outcomes”.

l) Other claims are rejected as being dependent on the rejected base claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 23-26, 43-46, and 61-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feinberg (US Patent No. 5,910,048).

a. As per claim 1, Feinberg discloses a random prize awarding feature to provide an outcome on a game console. The console includes a trigger means for testing a trigger condition

Art Unit: 3713

and initiating the outcome; the trigger condition is determined by a probability related to a turnover between successive occurrences of the trigger conditions (number of plays) on the console (col. 3, lines 35-37; and col. 4, lines 30-36). Feinberg does not disclose determining the trigger condition based on an average turnover between successive occurrences of the trigger conditions. However, Feinberg discloses generating trigger condition when the amount of played counter reaches a certain predetermined level (col. 4, lines 34-36). Moreover, calculating an average of a number of known quantities would have been well known to a person of ordinary skill in the art at the time the invention was made. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to generate a trigger condition based on the average of the number of played of Feinberg in order to ensure stability of the occurrence of the feature outcome.

b. As per claim 2, Feinberg discloses determined the trigger condition based on the turnover between successive occurrences or the wagers bet on the games (col. 4, lines 33-36). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use both conditions of Feinberg to determine a trigger condition, since using combination of known conditions to determine an occurrence of the trigger condition requires only routine skill in the art.

c. As per claim 3-4, offering a standard game and a jackpot game on a gaming console would have been well known to a person of ordinary skill in the art at the time the invention was made.

Art Unit: 3713

d. As per claim 23, refer to discussion in claim 1 above. Further, Feinberg discloses using credits bet to generate a trigger condition (col. 3, lines 46-48; and col. 4, lines 33-36).

e. As per claim 24-26, 43-46, and 61-64, refer to discussion in claims 1-4 and 23 above.

6. Claims 5-22, 27-42, 47-60, and 65-105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feinberg (US Patent No. 5,910,048) in view of Found et al (US 2001/0049303).

a. As per claim 5-9, Found discloses determining trigger condition by selecting a random number (paragraph 0043). Further, using a random number to determine an event upon a match of a number occurs in the game and the random number would have been well known. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to generate a trigger condition upon a match of a number in the game of Feinberg with the random number of Found in order to provide a trigger event dynamically.

b. As per claim 10-15, using currency denomination in cents, allotting a block of numbers containing the lowest numbers within a range, and providing a higher probability of winning in a simplified game than in a main game would have been well known to a person of ordinary skill in the art at the time the invention was made.

c. As per claim 16-17, Feinberg discloses providing three pseudo-reels with restricted different symbols (col. 2, lines 33-48). Further, providing a jackpot when the same symbol appears on a winning line would have been well known.

Art Unit: 3713

d. As per claim 18-19, assigning equal or unequal value or weight for the symbols on each reels both well known and obvious design choice.

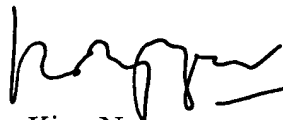
e. As per claim 20-22, Found discloses a gaming network having a central jackpot system that provides incrementing jackpot pool (paragraph 0043).

f. As per claim 27-42, 47-60, and 65-105, refer to discussion in claims 1-23 above.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (703) 308-7915. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

The central official fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.



Kim Nguyen
Primary Examiner
Art Unit 3713

kn

Date: June 7, 2004